IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP No.400 of 2006.

Decided on: 09.07.2007.

Smt. Balo Devi. … … **Petitioner.**

Versus

Bhakra Beas Management Board and Others. … … **Respondents.**

Coram:

The Hon'ble Mr. Justice Rajiv Sharma, J.

Whether approved for reporting?[1] *No.*

For the petitioners: **Ms. Ranjana Parmar, Advocate.**

For the Respondents: **Mr. N.K. Sood, Advocate.**

Rajiv Sharma, Judge (Oral):

The brief facts necessary for the adjudication of this petition are that Shri Satish Kumar died on 7.10.2001. He had joined the service as Team-Mate in the pay scale of Rs.300-430 vide appointment letter dated 5.11.1984. He was working as oil cleaner at the time of his death on 7.10.2001. The petitioner claims her-self to be second lawfully wedded wide of late Shri Satish Kumar. Satish Kumar's first wife, Prem Lata had died leaving behind Shri Santosh Kumar (son) and Sunita (daughter). The case of the petitioner was processed for pension and consequently vide Annexure R-10, dated 15.9.2005, the P.P.O. was issued whereby

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Whether reporters of local papers may be allowed to see the judgment? No.

she was held entitled to get 50% of family pension being second wife. She did not complete the codal formalities required after issuance of P.P.O. dated 15.9.2005.

Ms. Ranjana Parmar had argued that after Shri Santosh Kumar son from first wife had attained the age of 25 years on 5.3.2006, the petitioner was entitled to 100% pension, more particularly, in view of the affidavit, i.e. PR-1, dated 16.1.2006. Mr. Naresh Sood had argued that as per Punjab Civil Services Rules, as applicable to the employees of the Board, the petitioner is entitled only to 50% of the family pension, which had already been sanctioned in her favour and P.P.O. was issued on 15.9.2005.

I have heard the parties and perused the record.

The petitioner is the second wife of late Shri Satish Kumar. Shri Santosh Kumar and Ms. Sunita are the children from the first wife, Smt. Prem Lata. Before adverting to the facts, it will be apt to take note of few relevant provisions of Punjab Civil Services Rules.

A note has been appended under Rule 6.17, which reads as under:-

> **"Note 1. - When a 'Government employee' is survived by more than one widow, the pension will be paid to them in equal shares. O n the death of a widow, her share of the pension will become payable to her eligible minor child, if at the time of her death, a widow leaves no eligible minor child, the payment of her share of the pension will cease.**
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> **Note 2. – Where a Government employee is survived by a widow but has left behind as eligible minor child from another wife, the eligible minor**

child will be paid the share of pension which the mother would have received if she had been alive at the time of the death of the Government employee.

It is evident from the harmonious reading of Notes 1 and 2 that the family pension is required to be paid if there is more than one widow in equal shares and on the death of a widow, her share of pension will become payable to her eligible minor child, if at the time of her death, a widow leaves no minor child, the payment of her share of the pension will cease.

Shri Santosh Kumar son from the first wife and petitioner had been paid family pension in equal shares, i.e. 50% each. Shri Santosh Kumar had attained the age of 25 years on 5.3.2006 and as per sub-clause (c) of Rule 6.17, the son is entitled to family pension upto the age of 25 years. Thereafter the family pension, which was being paid to Santosh Kumar, is not liable to be paid to the petitioner in absence of any specific Rule. Though it is provided under sub-rule (7) of Rule 54 of CCS (Pension) Rules, 1972 that if the widow is not survived any child, her share of the family pension shall not lapse, but shall be payable to the other widows in equal share, or if there is only one such other widow, in full, to her. It is evident from the reading of this proviso to sub-rule (7) of Rule 54 that if the widow is not survived by any child, her share of the family pension will not lapse and the same shall be payable to the other widows in equal shares, or if there is only one widow, in full to her. The proviso had been added to sub-rule (7) of Rule 54 on 16th February, 1991. The object of insertion of proviso

to sub-rule (7) of Rule 54 is laudable to mitigate the hardships of the widows.

The Board may also consider in consultation with the State of Punjab to get the proviso on the anology of sub-rule (7) of Rule 54 inserted in Rule 6.17 of the Punjab Civil Services Rules. Till such a proviso is brought in the statute book, the petitioner is not entitled to get 50% share of family pension paid to Shri Santosh Kumar after he had attained the age of 25 years after 5.3.2006.

Accordingly, there is no merit in the writ petition and the same is dismissed with the observations made hereinabove. No order as to costs.

(Rajiv Sharma)
Judge

July 09, 2007
(sck).